

SENATE BILL NO. 9

INTRODUCED BY C. CHRISTIAENS

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING FOR THE PRODUCTION OF ST. JOHNSWORT AS AN AGRICULTURAL CROP; REQUIRING REGISTRATION, A REGISTRATION FEE, AND A BOND; PROVIDING FOR THE DEPARTMENT OF AGRICULTURE'S ACTION ON AN APPLICATION; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 7-22-2101, 7-22-2115, 7-22-2116, 80-5-124, AND 80-7-702, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Definitions. As used in [sections 1 through 5], the following definitions apply:

(1) "Department" means the department of agriculture provided for in 2-15-3001.

(2) "St. Johnswort" means all varieties of the plant *Hypericum perforatum*.

NEW SECTION. Section 2. Registration required -- application and payment of registration fee -- bond. (1) Because St. Johnswort is listed as a class I noxious weed in Montana, an individual or corporation engaged in the production of St. Johnswort as an agricultural crop shall register with the department.

(2) Applications must be made to the department on registration application blanks.

(3) Registration application blanks must be furnished by the department. The applicant shall provide the following information:

(a) a statement of the applicant's name and place of residence;

(b) the number of acres proposed for use to produce St. Johnswort;

(c) the location of the acreage to be used for St. Johnswort production, specifically stating the location by sectional division to the nearest quarter section, the township and range, and, if within the corporate limits of a town or city, the number of the lot and block in the town or city;

(d) a signed memorandum of understanding between the applicant and the county weed district that has jurisdiction over the proposed acreage to be used for the production of St. Johnswort, which

1 includes a statement agreeing to inspections and control, if necessary, by the county weed district; and
2 (e) other information that the department may require under rules adopted by it for the protection,
3 safety, and welfare of the public and the environment.

4 (4) The completed application blank must be submitted to the department.

5 (5) The applicant shall provide a bond, in an amount to be determined by the department, that will
6 provide for control and eradication in the event that cultivation and growth stage restrictions are not
7 complied with.

8
9 **NEW SECTION. Section 3. Department action on application.** (1) Upon receipt of the application
10 and payment of the prescribed fees, the department may issue a certificate of registration for production
11 of St. Johnswort on the acreage specified in the application. The certificate must contain the name of the
12 grower, the name of the property owner, and the specific location. The department may restrict acreage,
13 impose specific containment measures because of conditions in the area proposed to be used for St.
14 Johnswort production, or both.

15 (2) Before issuing a certificate of registration, the department shall consult with the county weed
16 district that has jurisdiction over the acreage that is proposed to be used for the production of St.
17 Johnswort. Upon written objection from the county weed district, the department may hold a hearing on
18 the application as provided in department rules.

19
20 **NEW SECTION. Section 4. Registration fees.** (1) Each year before a certificate of registration may
21 be issued for the production of St. Johnswort, the owner of or applicant for the certificate shall pay the
22 department a registration fee to be set by the department by rule. The fee must be commensurate with
23 the costs of administering [sections 1 through 5].

24 (2) All fees collected for registration for the production of St. Johnswort must be deposited in a
25 state special revenue account to be used by the department for the purpose of administering [sections 1
26 through 5].

27
28 **NEW SECTION. Section 5. Rulemaking authority.** The department shall adopt all necessary rules
29 for the regulation of the importation or sale of materials for the purpose of growing St. Johnswort. In
30 adopting the rules, the department may provide for the establishment of inspection stations, the

1 appointment of inspectors, the establishment of the inspection fees, the issuance of certificates, the
2 methods of transporting and packaging, and any cultivation requirements that are designed to prevent the
3 spread of the crop. The cultivation requirements may include vegetation-free barriers and provisions for
4 harvest prior to seed set or other growth stage restrictions. The department may determine the bond
5 amount required to ensure that control or eradication of the crop is completed in a timely manner if
6 restrictions are not met.

7
8 **Section 6.** Section 7-22-2101, MCA, is amended to read:

9 **"7-22-2101. Definitions.** As used in this part, unless the context indicates otherwise, the
10 following definitions apply:

11 (1) "Board" means a district weed board created under 7-22-2103.

12 (2) "Commissioners" means the board of county commissioners.

13 (3) "Department" means the department of agriculture provided for in 2-15-3001.

14 (4) "District" means a weed management district organized under 7-22-2102.

15 (5) "Native plant" means a plant endemic to the state of Montana.

16 (6) "Native plant community" means an assemblage of native plants occurring in a natural habitat.

17 (7) (a) "Noxious weeds" or "weeds" means, subject to subsection (7)(b), any exotic plant species
18 established or that may be introduced in the state ~~which~~ that may render land unfit for agriculture,
19 forestry, livestock, wildlife, or other beneficial uses or that may harm native plant communities and that
20 is designated:

21 (i) as a statewide noxious weed by rule of the department; or

22 (ii) as a district noxious weed by a board, following public notice of intent and a public hearing.

23 (b) A weed designated by rule of the department as a statewide noxious weed must be considered
24 noxious in every district of the state. The department or a district may not designate St. Johnswort as a
25 noxious weed when it is being grown as an agricultural crop as provided in [section 2].

26 (8) "Person" means an individual, partnership, corporation, association, or state or local
27 government agency or subdivision owning, occupying, or controlling any land, easement, or right-of-way,
28 including any county, state, or federally owned and controlled highway, drainage or irrigation ditch, spoil
29 bank, barrow pit, or right-of-way for a canal or lateral.

30 (9) "Supervisor" means the person employed by the board to conduct the district noxious weed

1 management program and to supervise other district employees.

2 (10) "Weed management" or "control" means the planning and implementation of a coordinated
3 program for the containment, suppression, and, where possible, eradication of noxious weeds."

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5 **Section 7.** Section 7-22-2115, MCA, is amended to read:

6 **"7-22-2115. Noxious weeds and seeds declared as nuisance.** Noxious weeds and the seed of any
7 noxious weed are ~~hereby declared~~ a common nuisance: unless the weed or weed seed is used in the
8 production of St. Johnswort as provided in [section 2]."

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10 **Section 8.** Section 7-22-2116, MCA, is amended to read:

11 **"7-22-2116. Unlawful to permit noxious weeds to propagate.** It is unlawful for ~~any~~ a person to
12 permit any noxious weed to propagate or go to seed on ~~his~~ the person's land, except that:

13 (1) ~~any~~ a person who adheres to the noxious weed management program of ~~his~~ the person's
14 district or who has entered into and is in compliance with a noxious weed management agreement is
15 considered to be in compliance with this section;

16 (2) a person who is producing St. Johnswort as an agricultural crop, as provided in [section 2],
17 is considered to be in compliance with this section."

18

19 **Section 9.** Section 80-5-124, MCA, is amended to read:

20 **"80-5-124. Exemptions.** (1) The labeling requirements in 80-5-123 and the prohibitions in
21 80-5-134 do not apply to:

22 (a) seed or grain that is not intended for sowing purposes;

23 (b) seed in storage in or being transported or consigned to a cleaning or processing establishment
24 for cleaning or processing if:

25 (i) the invoice or labeling accompanying that seed bears the statement "seeds for processing"; and

26 (ii) any labeling or representation made with respect to the uncleaned or unprocessed seed is
27 subject to this chapter; and

28 (c) a carrier in respect to seed transported or delivered for transportation in the ordinary course
29 of its business as a carrier, as long as the carrier is not engaged in producing, processing, or marketing
30 seed that is subject to the provisions of this chapter;

(d) seed that is used for the production of St. Johnswort as an agricultural crop as provided in
[section 2].

(2) A person is not subject to the penalties in 80-5-136 for selling or offering for sale seeds subject to the provisions of this chapter that were incorrectly labeled or represented as to kind, species and subspecies (if appropriate), variety, type, origin, elevation, or year of collection (if required) when the seed cannot be identified by examination, unless the person has failed to obtain an invoice, genuine grower declaration, or other labeling information and has failed to take reasonable precautions to ensure the identity of the seeds. A genuine grower declaration of variety is considered an affirmation that the grower holds records of proof regarding parent seed, such as invoices and labels."

Section 10. Section 80-7-702, MCA, is amended to read:

"80-7-702. Rulemaking authority. The department of agriculture shall adopt all necessary rules for the regulation of the importation or sale of materials as provided in 80-7-701. The department in adopting the rules may provide for the establishment of inspection stations, the appointment of inspectors, the establishment of the inspection fees, the issuance of certificates, the methods of transporting and packaging, the regulation of nursery stock commerce, and other rules and procedures necessary to carry out 80-7-701 through 80-7-704. The department shall provide an exemption for certified St. Johnswort producers as provided in [section 2]."

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